

The Gazette of India



EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

24.5.57

No. 258] NEW DELHI, TUESDAY, MAY 21, 1957/VAISAKHA 31, 1879

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 20th May 1957

S.R.O. 1654.—In pursuance of the provisions of sub-section (1) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No. 262 of 1957, presented to the Commission on the 25th April, 1957 under section 81 of the said Act, by Shri K. Damodaran, residing at Nangakkil House, Eastern Nada, Guruvayoor, calling in question the election to the House of the People from the Palghat constituency of that House of Shri P. Kunhan, residing at Padinjarae Veedu, Palappuram Post and Shri V. Eacharan, residing at Iyyani, Anchumoorthis, Alathoor.

Received by Registered Post this the twenty-fifth day of April One Thousand Nine Hundred and Fifty Seven.

The 25th April, 1957.

DIN DAYAL, Under Secy.
Election Commission, India.

BEFORE THE ELECTION COMMISSION OF INDIA

ELECTION PETITION No. 262 OF 1957.

*Petitioner:—*K. Damodaran.

*Respondents:—*1. P. Kunhan.

2. V. Eacharan.

3. P. Vasu Menon.

4. M. Chadayan.

5. T. Muhammed Ismail.

1. The petitioner is K. Damodaran, aged , residing at Nangakkil House, Eastern Nada, Guruvayoor.

2. The 1st Respondent is P. Kunhan, aged about 40, residing at Pandinjarae Veedu, Palappuram Post.

3. The 2nd Respondent is V. Eacharan, aged about 42, residing at Iyyani, Anchumoorthis, Alathoor.

4. The 3rd Respondent is P. Vasu Menon, aged about 43, residing at Sultanpet, Advocate, Palghat.

5. The 4th Respondent is M. Chadayan, aged about 40, residing at Muniyatan Fort, Payangadi.

6. The 5th Respondent is T. Mohammed Ismail, aged about 41, Advocate, Ernakulam.

7. The petitioner and the Respondents were candidates for the election to the House of the People from the Palghat Parliamentary constituency.

8. In the Palghat Parliamentary Constituency consisting of two seats for the House of the People one seat is reserved for the Scheduled Castes.

9. The petitioner filed his nomination paper for the seat other than the reserved seat (hereinafter referred to as the general seat) and the 1st, 2nd and 4th Respondents filed their nomination papers for the seats reserved for the Scheduled Castes (hereinafter referred to as the Reserved seat).

10. At the time of the scrutiny of the nomination papers as per the provisions of Section 36 of the R. P. Act of 1951 objection was raised with respect to the 4th Respondent's nomination paper on the ground that he is not a member of the Scheduled Caste; and hence not entitled to file his nomination paper for the Reserve Seat.

11. The 4th Respondent belongs, if at all, to the "Pulaya" community declared to be Scheduled Tribes in the Malabar District of the Kerala State as per The Constitution (Scheduled Tribes) Order, 1950.

12. It is respectfully submitted that "Pulayas" are not stated to belong to the Scheduled Castes so far as Malabar District is concerned as per The Constitution (Scheduled Castes) Order of 1950.

13. In the nomination paper filed by the 4th Respondent he described himself as belonging to the "Adi Dravida" community with the deliberate intention of getting his nomination paper accepted for the Reserve Seat.

14. The 4th Respondent is not an "Adi Dravida" nor has the 4th Respondent professed himself to be an "Adi Dravida" at any time prior to the filing of his nomination paper; Pulayas will not also come under the category of Adi Dravidas; on the contrary the 4th Respondent is estopped by his conduct and profession from contending that he belongs to a community other than the Pulaya Community.

15. In this connection the petitioner begs to submit that the paternity of the 4th Respondent if taken as the test to find out the community to which he belongs, will establish the fact that he is not a member of either the Scheduled Castes or the Scheduled Tribes.

16. The objection raised before the Returning Officer at the time of the scrutiny of the nomination paper of the 4th Respondent is however not accepted by him.

17. In the election that ensued the petitioner polled 185662 votes and the Respondents 1 to 5 polled 233807, 186594, 142863, 91922, 70691 votes respectively and 21651 votes were declared to be invalid.

18. The 1st Respondent having secured the largest number of votes among the contesting candidates for the Reserved and General Seats was declared to be elected for the Reserved Seat as per Section 54 of the R. P. Act read with the illustration thereon; the 2nd Respondent is then declared to be duly elected for the General Seat (although qualified for the Reserved seat) as per the procedure prescribed by Section 54 of the R. P. Act.

19. The improper acceptance of the nomination paper of the 4th Respondent for the Reserved Seat has caused a division of votes polled by the contesting candidates and the petitioner believes that a substantial portion, if not the entire votes, polled by the 4th Respondent would have been obtained by the petitioner had the nomination paper of the 4th Respondent been rejected at the time of scrutiny.

20. The result of the election so far as the returned candidates are concerned has been materially affected by the improper acceptance of the nomination paper of the 4th Respondent.

21. The acceptance of the nomination paper of the 4th Respondent, it is respectfully submitted, is against the provisions of The Constitution (Scheduled Castes) Order of 1950, The Representation of Peoples' Act, the Rules and Orders thereunder and also the Constitution of India and hence the result of the election is materially affected by the said non-compliance with the various provisions of the Statutes and orders referred to.

22. Respondents 1 and 2 would not have been duly elected had the nomination paper of the 4th Respondent was rejected for reasons set forth above and the petitioner would have been successful in the election and declared to be the returned candidate for the General Seat.

In the circumstances it is humbly prayed that the Election Commission be pleased

- (a) to declare the election of the returned candidates viz. Respondents 1 and 2 to be void for the reasons stated above, and
- (b) to declare the petitioner to be duly elected for the General Seat.

(Sd.) K. DAMODARAN,
Petitioner.

I, K. Damodaran, declare that the contents of paragraphs 1 to 14 and paragraphs 16 to 22 of the above petition are true within my knowledge and the contents of paragraph 15 are believed by me on credible information received to be true and correct.

Sd./-K. DAMODARAN,
Petitioner.

[No. 82/262/57.]

By order,
DIN DAYAL, Under Secy.

